IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 21690 of 2004

Between:

N.Vishnu Murthy S/o.Veamana Murhty
Deputy Superintendent (P), F,49678,

Aged about 54 yrs, H.No.18-152/1, Hanumanpet,
Malkajgiri, Secunderabad.

..... PETITIONER

AND

1 The Regional Manager APSRTC
Nalgonda Region, Nalgonda District

2 The Depot Manager APSRTC
Yadagirigutta Bus Depot, Nalgonda Dist.

3 The Depot Manager APSRTC
BHEL Bus Depot, Medak Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of 2nd Respondent in issuing the proceedings No.E2/443(1) 2002/YGT, dt 26-6-2004 as illegal arbitrary and unjust and consequently set aside the proceedings No.E2/443(1)/2002-YGT, dt 26-6-2004 issued by the 2nd Respondent.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondents: MR.V.T.M.PRASAD,STANDING COUNSEL FOR APSRTC

The Court made the following:

ORDER

Heard both sides.

The main grievance of the petitioner who is an employee of the respondents is that the impugned action of recovery is one without any notice and prior opportunity being provided for. Hence the same is contrary to the Principles of Natural Justice. Further. It is also pointed out that the respondents cannot be proceeded for recovery of any such amount.

During the course of arguments it is contended that in similar circumstances, this Court has already allowed the similar Writ Petition inW.P.No.20068 of 2003 as per the orders dated 30-11-2004 on the same ground of impugned notice.

In view of the fact that in this case no prior notice was issued nor any opportunity was provided, the Writ Petition is allowed and the impugned order is set aside. However, this will not preclude the authorities from recovering the excess amount, if any, paid to the petitioner after putting him on notice and calling for explanation from him. No costs.

24-01-2005.

Hsd

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Monday, the Twenty Fourth day of January, 2005.

Asst.Registrar.

To

1 The Regional Manager APSRTC
Nalgonda Region, Nalgonda District

2 The Depot Manager APSRTC
Yadagirigutta Bus Depot, Nalgonda Dist.

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BHEL Bus Depot, Medak Dist.

4. 2 C.D copies.